



March 26, 1999

ENGROSSED SENATE BILL No. 55

DIGEST OF SB55 (Updated March 1, 1999 5:12 pm - DI 84)

Citations Affected: IC 7.1-3; IC 7.1-4; IC 7.1-5.

Synopsis: Alcoholic beverages. Makes numerous changes concerning alcoholic beverages, including the following: (1) Corrects a reference to the Indiana Administrative Code in order to cite the current rule on Sunday sales of alcoholic beverages by certain retailers. (2) Revises the description of auto racing facilities in the law concerning the time to begin Sunday sales of alcoholic beverages so that the law is not limited to an oval track. (3) Provides that at certain auto racing facilities, the
(Continued next page)

Effective: Upon passage; July 1, 1999.

Clark, Wyss

(HOUSE SPONSORS — KUZMAN, YOUNG M)

January 6, 1999, read first time and referred to Committee on Rules and Legislative Procedure.

January 21, 1999, amended; reassigned to Committee on Public Policy.

February 8, 1999, amended, reported favorably — Do Pass.

February 18, 1999, read second time, ordered engrossed.

February 19, 1999, engrossed.

March 1, 1999, read third time, passed. Yeas 38, nays 11.

HOUSE ACTION

March 3, 1999, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

March 25, 1999, amended, reported — Do Pass.

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owner or operator may permit a person to enter with an alcoholic beverage for consumption at the facility and that a person may carry on, convey to, or consume, on or about the facility, an alcoholic beverage that was not then and there purchased at the facility. (4) Provides that the alcoholic beverage commission may not issue a beer retailer's permit to a person who, within ten years before the date of application, has been convicted of certain federal or state crimes. (5) Allows minors to be present in indoor golf facilities where alcoholic beverages are sold.

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March 26, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED SENATE BILL No. 55

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 7.1-3-1-14 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) It is lawful for
3 an appropriate permittee, unless otherwise specifically provided in this
4 title, to sell alcoholic beverages each day Monday through Saturday
5 from 7 a.m., prevailing local time, until 3 a.m., prevailing local time,
6 the following day. Sales shall cease wholly on Sunday at 3 a.m.,
7 prevailing local time, and not be resumed until the following Monday
8 at 7 a.m., prevailing local time.
9 (b) It is lawful for the holder of a supplemental retailer's permit
10 which is not specified in subsection (c) to sell the appropriate alcoholic
11 beverages on Sunday from noon, prevailing local time, until 12:30 a.m.,
12 prevailing local time, the following day.
13 (c) It is lawful for the holder of a supplemental retailer's permit to
14 sell the appropriate alcoholic beverages on Sunday from 11:00 a.m.,
15 prevailing local time, until 12:30 a.m., prevailing local time, the

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following day if the holder of the permit meets the following criteria:

- (1) the holder of the permit is a hotel; or
- (2) the holder of the permit meets the requirements of ~~905 IAC 1-15.1-2(a)~~; **905 IAC 1-41-2(a)**.

(d) Notwithstanding subsections (b) and (c), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31 from the time provided in subsection (b) or (c) until 3 a.m. the following day.

(e) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises:

- (1) described in section 25(a) of this chapter;
- (2) **that are a facility** used in connection with the operation of a paved ~~oval~~ track more than two (2) miles in ~~circumference~~ **length** that is used primarily in the sport of auto racing; or
- (3) being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

SECTION 2. IC 7.1-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The commission shall not issue a beer retailer's permit, except as otherwise authorized in this title and subject to the other restrictions contained in this title, to the following persons:

- (1) An alien.
- (2) A person who:
 - (A) is not of good moral character and of good repute in the community in which the person resides; **or**
 - (B) **has been convicted within ten (10) years before the date of application of:**
 - (i) **a federal crime having a sentence of at least one (1) year;**
 - (ii) **an Indiana Class A, Class B, or Class C felony; or**
 - (iii) **a crime in a state other than Indiana having a penalty equal to the penalty for an Indiana Class A, Class B, or Class C felony.**
- (3) A person who does not own the premises to which the permit will be applicable, or who does not have a bona fide lease on the premises for the full period for which the permit is to be issued.
- (4) A law enforcement officer or an officer who is not an elected officer of a municipal corporation, or governmental subdivision,



1 or of this state, charged with any duty or function in the
2 enforcement of this title.

3 (5) An officer or employee of a person engaged in the alcoholic
4 beverage traffic, which person is a nonresident of this state, or is
5 engaged in carrying on any phase of the manufacture of, traffic in,
6 or transportation of alcoholic beverages without a permit under
7 this title when a permit is required by this title.

8 (6) If the permit applicant does not hold a brewer's permit, a
9 person who leases from a person, or an officer or agent of that
10 person, who holds a brewer's permit or a beer wholesaler's permit.

11 (7) If the permit applicant does not hold a brewer's permit, a
12 person who is indebted to a person who holds a brewer's permit
13 or a beer wholesaler's permit, or an officer or agent of that person,
14 for a debt secured by a lien, mortgage, or otherwise, upon the
15 premises for which the beer retailer's permit is to be applicable,
16 or upon any of the property or fixtures on the premises, or used,
17 or to be used in connection with the premises.

18 (8) A person whose place of business is conducted by a manager
19 or agent, unless the manager or agent possesses the same
20 qualifications required for the issuance of a beer retailer's permit
21 to the person.

22 (9) A minor.

23 (10) A person non compos mentis.

24 (11) A person who has held a permit under this title and who has
25 had that permit revoked within one (1) year prior to the date of
26 application for a beer retailer's permit.

27 (12) A person who has made an application for a permit of any
28 type which has been denied less than one (1) year prior to the
29 person's application for a beer retailer's permit unless the first
30 application was denied by reason of a procedural or technical
31 defect.

32 (13) A person who is not the proprietor of a restaurant located and
33 being operated on the premises described in the application for
34 the beer retailer's permit, or of a hotel, or of a club, owning, or
35 leasing the premises as a part of it. The disqualification contained
36 in this subdivision shall not apply to the qualifications for or
37 affect the privileges to be accorded under a beer dealer's permit
38 or a dining car beer permit.

39 (b) Subsection (a)(9) does not prevent a minor from being a
40 stockholder in a corporation.

41 SECTION 3. IC 7.1-3-18-9 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The



commission may issue an employee's permit to a person who desires to act as a clerk in a package liquor store or as a bartender, waiter, waitress, or manager in a retail establishment, excepting dining car and boat employees.

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

- (1) the sole proprietor;
- (2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;
- (3) a member of a limited liability company that owns the business establishment; or
- (4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

SECTION 4. IC 7.1-4-1-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) The biennial license fee for an employee's permit is:

- (1) twenty dollars (\$20); or
- (2) **five dollars (\$5) if the permit is used only to perform volunteer service that benefits a nonprofit organization. and**
- (b) The term of the permit is two (2) years.

SECTION 5. IC 7.1-5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

- (1) Civic center.



- 1 (2) Convention center.
- 2 (3) Sports arena.
- 3 (4) Bowling center.
- 4 (5) Bona fide club.
- 5 (6) Drug store.
- 6 (7) Grocery store.
- 7 (8) Boat.
- 8 (9) Dining car.
- 9 (10) Pullman car.
- 10 (11) Club car.
- 11 (12) Passenger airplane.
- 12 (13) Horse racetrack facility holding a recognized meeting permit
- 13 under IC 4-31-5.
- 14 (14) Satellite facility (as defined in IC 4-31-2-20.5).
- 15 (15) Catering hall under IC 7.1-3-20-24 that is not open to the
- 16 public.
- 17 (16) That part of a hotel or restaurant which is separate from a
- 18 room in which is located a bar over which alcoholic beverages are
- 19 sold or dispensed by the drink.
- 20 (17) Entertainment complex.

21 **(18) An indoor golf facility.**

22 (b) For the purpose of this subsection, "food" means meals prepared

23 on the licensed premises. It is lawful for a minor to be on licensed

24 premises in a room in which is located a bar over which alcoholic

25 beverages are sold or dispensed by the drink if all the following

26 conditions are met:

- 27 (1) The minor is eighteen (18) years of age or older.
- 28 (2) The minor is in the company of a parent, guardian, or family
- 29 member who is twenty-one (21) years of age or older.
- 30 (3) The purpose for being on the licensed premises is the
- 31 consumption of food and not the consumption of alcoholic
- 32 beverages.

33 SECTION 6. IC 7.1-5-8-4 IS AMENDED TO READ AS

34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~Serving of~~

35 ~~Setups Prohibited.~~ (a) It is unlawful for a person who owns or operates

36 a private or public restaurant or place of public or private entertainment

37 to permit another person to come into ~~his~~ **the** establishment with an

38 alcoholic beverage for sale or gift, or for consumption in the

39 establishment by that person or another, or to serve a setup to a person

40 who comes into ~~his~~ **the** establishment. However, the provisions of this

41 section shall not apply to **the following**:

- 42 (1) A private room hired by a guest of a bona fide club or hotel



1 that holds a retail permit.

2 **(2) A facility that is used in connection with the operation of**
3 **a paved track of more than two (2) miles in length that is used**
4 **primarily in the sport of auto racing.**

5 **(b)** An establishment operated in violation of this section hereby is
6 declared to be a public nuisance and subject to abatement as other
7 public nuisances are abated under the provisions of this title.

8 SECTION 7. IC 7.1-5-8-5 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. ~~Taking~~
10 ~~Alcoholic Beverage On Licensed Premises Prohibited~~. It is a Class C
11 misdemeanor for a person, for ~~his~~ **the person's** own use, to knowingly
12 carry on, convey to, or consume, on or about the licensed premises of
13 a permittee, an alcoholic beverage that was not then and there
14 purchased from that permittee. **However, this section does not apply**
15 **to a person at a facility that is used in connection with the**
16 **operation of a paved track more than two (2) miles in length that**
17 **is used primarily in the sport of auto racing.**

18 SECTION 8. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senator Garton be removed as author of Senate Bill 55 and that Senator Clark be substituted therefor.

GARTON

SENATE MOTION

Mr. President: I move that Senator Wyss be added as second author of Senate Bill 55.

CLARK

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 55, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Public Policy.

(Reference is to SB 55 as introduced.)

GARTON, Chairperson

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COMMITTEE REPORT

Mr. President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 55, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 41 through 42

Page 4, delete lines 1 through 14.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 55 as printed January 22, 1999.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 3.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred Senate Bill 55, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 3. IC 7.1-3-18-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as a clerk in a package liquor store or as a bartender, waiter, waitress, or manager in a retail establishment, excepting dining car and boat employees.

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

- (1) the sole proprietor;
- (2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;
- (3) a member of a limited liability company that owns the business establishment; or
- (4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

SECTION 4. IC 7.1-4-1-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) The biennial license fee for an employee's permit is:

- (1) twenty dollars (\$20); or

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**(2) five dollars (\$5) if the permit is used only to perform
volunteer service that benefits a nonprofit organization. and**

(b) The term of the permit is two (2) years."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 55 as printed February 9, 1999.)

KUZMAN, Chair

Committee Vote: yeas 13, nays 1.

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